

3 FAM 4350 SUSPENSION

(CT:PER-641; 06-22-2011)
(Office of Origin: HR/ER/CSD)

3 FAM 4351 PROPOSING OFFICIAL

(CT:PER-641; 06-22-2011)
(Uniform State/USAID/BBG/Foreign Service Corps, USDA/Commerce)
(Applies to Foreign Service Only)

The following officials may propose to suspend an employee:

Agency	Proposing Official
State	Director, Office of Employee Relations (HR/ER) or designee
USAID	Chief, <i>Foreign Service</i> Personnel Division (<i>OHR/FSP</i>) or Deputy Inspector General (for OIG employees)
BBG	Director of Technology, Services and Innovation (T); Director of Central News Division (VOA/N); or Director of Human Resources (OHR)
Agriculture	Foreign Agricultural Service: First Line Supervisor; APHIS: Deputy Administrator, IS; Associate Administrator; Assistant Deputy Administrator; Regional Directors; Director, Operational Support; Director, Human Resources; Chief, Employee and Management Relations
Commerce	Human Resources Manager, Office of Foreign Service Human Resources

3 FAM 4352 DECIDING OFFICIALS

(CT:PER-637; 05-18-2011)
(Uniform State/USAID/BBG/Foreign Service Corps, USDA/Commerce)
(Applies to Foreign Service Only)

- a. **For Department of State:** The Deputy Assistant Secretary (DAS), Bureau of Human Resources, who supervises the proposing official,

normally makes the decision whether or not to sustain the proposed suspension

- b. **For USAID:** The Director, Office of Human Resources (M/HR), or the Inspector General (for Office of Inspector General (OIG) employees), makes the decision whether or not to sustain the proposed suspension.
- c. **For Department of Commerce:** The Deputy Director General, U.S. and Foreign Commercial Service, makes the decision whether or not to sustain the proposed suspension.
- d. If the deciding official believes that there may be a conflict of interest, he or she may designate a different deciding official.
- e. A deciding official described in 3 FAM 4367 may become the deciding official for a suspension if he or she determines that a suspension is appropriate as a lesser disciplinary action.

3 FAM 4353 PROPOSING SUSPENSION

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If after consideration of the report of inquiry or investigation and the factors specified in 3 FAM 4324.3, the proposing official decides to propose a suspension, he or she must notify the employee in writing:

- (1) Of the specific reasons for the proposal to suspend;
- (2) That if the proposed suspension is sustained, the length of time the letter of suspension will remain in the Official Performance File (OPF);
- (3) That the employee may respond orally and/or in writing, and may submit written statements in support of that response;
- (4) Of the name of the deciding official to whom the employee may respond;
- (5) That the employee's response will be fully considered by the deciding official;
- (6) That, subject to 3 FAM 4325, the employee may have a representative of the employee's choosing;

- (7) Of any decision to exclude the employee from the workplace during the notice period in accordance with 3 FAM 4323;
- (8) That the employee must be granted a reasonable amount of official time to:
 - (a) Review only the material relied on in proposing the action; and
 - (b) Prepare a response to the notice;
- (9) That the employee must acknowledge receipt of the notice of proposed suspension as instructed in the notice; and
- (10) That should the employee choose to designate a representative, such designation must be in writing.

3 FAM 4354 EMPLOYEE'S RESPONSE

(CT:PER-637; 05-18-2011)

(Reviewed and Revalidated)

(Uniform State/USAID/BBG/Foreign Service Corps, USDA/Commerce)

(Applies to Foreign Service Only)

- a. An employee whose official duty station is outside the United States has 30 days from receipt of the proposal to suspend to respond in writing and/or orally to the deciding official.
- b. An employee in the United States has 15 days from receipt of the proposal to suspend to respond in writing and/or orally to the deciding official.
- c. The employee may submit a written request for an extension of the response deadline. The deciding official will approve the request if it is reasonable.

3 FAM 4355 ACTION BY THE DECIDING OFFICIAL

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(Uniform State/USAID/BBG/Foreign Service Corps, USDA/Commerce)

(Applies to Foreign Service Only)

- a. After reviewing the proposal to suspend and the employee's response, if

any, the deciding official will decide to:

- (1) Withdraw the charges and close the case; or
- (2) Admonish the employee; or
- (3) Reprimand the employee; or
- (4) Suspend the employee for a specified period of time not to exceed the period proposed.

b. The deciding official will notify the employee, in writing, of the decision. If the decision is to suspend, the decision letter must:

- (1) Identify the specific charges in the proposal for suspension that have been sustained;
- (2) Advise the employee of the length of the suspension imposed;
- (3) Advise the employee of the date the suspension will commence (e.g., within 30 days of receipt of the decision letter);
- (4) Advise the employee that the record copy of the letter of suspension will be made a part of the employee's OPF for a specific time period, subject to the conditions in 3 FAM 4355, paragraph d or e; and
- (5) Make specific reference to the employee's right to file a grievance under Chapter 11 of the Act and 3 FAM 4400. In that context, the employee must be advised that if the employee files a rebuttal to the discipline letter for insertion into the personnel record the agency may include a response to such rebuttal, including documenting those cases in which the board has revised and upheld the discipline.

c. The disposition of records relating to a suspension will be as follows:

- (1) The deciding official will forward:
 - (a) The record copy of the decision letter for inclusion in the Official Performance File; and
 - (b) The record on which the decision was based to:

Agency	Official
State	Director, Office of Employee Relations (HR/ER)

USAID	Chief, <i>Foreign Service</i> Personnel Division (<i>OHR/FSP</i>); Chief Executive Management Staff (M/HR/EM); or Chief, Personnel Services Division (IG/M/PS)
BBG	Chief, Labor and Employee Relations Division (OHR/L)
Agriculture	Employee and Labor Relations Branch, Human Resources Division, Farm Service Agency
Commerce	Human Resources Manager, Office of Foreign Service Human Resources

- (2) The decision letter will not be placed in the employee's Official Performance File until 30 days from receipt of the decision letter by the employee.
- d. If an employee is suspended for 5 or fewer days, the letter of suspension must remain in an employee's file for a period of 2 years or until it is reviewed by two commissioning and tenure boards, one tenure board and all promotion boards (classwide and conal) that review the file that year, or all promotion boards (classwide and conal) that review the file for 2 years.
- e. If the suspension is for more than 5 days, the letter of suspension must not be removed until the employee is tenured or next promoted.
- f. The employee is advised to review his or her OPF to ensure timely removal of the decision letter.

3 FAM 4356 PAYROLL AND ALLOWANCES ACCOUNTING DURING SUSPENSION

(CT:PER-637; 05-18-2011)

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Absence from duty because of suspension without pay must be recorded on the employee's time and attendance record as provided in instructions issued by the appropriate payroll office or regional payroll center. A Form SF-50, Notification of Personnel Action, must be processed by the appropriate administrative office and becomes a permanent record in the employee's OPF. The personnel action will not be removed from the OPF unless the suspension is overturned by a third party.

3 FAM 4357 THROUGH 4359 UNASSIGNED